



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Arch Insurance Company

MFDR Tracking Number

M4-17-1679-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

February 3, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The attached bills have been denied by the requesting additional information [sic]. The reconsiderations were sent to Broadspire but they were not processed. No response was send to us by the carrier. We are now requesting Medical Fee Dispute Resolution."

Amount in Dispute: \$3,264.12

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The charges are disputed as the medications were not authorized."

Response Submitted by: Broadspire

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 15, 2016 – April 28, 2016	Pharmacy Services	\$3,264.12	\$1,446.22

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.500 defines terms used in pharmaceutical billing.
3. 28 Texas Administrative Code §134.502 sets out the procedures for pharmaceutical benefits.
4. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
5. 28 Texas Administrative Code §134.530 sets out the closed formulary requirements for claims not subject to certified networks.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - N – Not appropriately documented

- Denied – Medication Not Authorized

Issues

1. What are the services in dispute?
2. Is Arch Insurance Company's denial of payment due to lack of documentation supported?
3. Is Arch Insurance Company's denial of payment due to lack of preauthorization supported?
4. Is Memorial Compounding Pharmacy (Memorial) eligible for reimbursement of the services in question?

Findings

1. Memorial is seeking reimbursement for the following services:
 - Mexolicam bulk powder, NDC 38779274601, dispensed February 15, 2016
 - Mexolicam bulk powder, NDC 38779274601, dispensed February 29, 2016
 - Mexolicam bulk powder, NDC 38779274601, dispensed March 14, 2016
 - Compound containing the following ingredients, including a compounding fee, dispensed April 14, 2016:
 - Baclofen, NDC 38779038809
 - Mefenamic Acid, NDC 38779066906
 - Meloxicam, NDC 38779274601
 - Flurbiprofen, NDC 38779036209
 - Ethoxy Diglycol, NDC 38779190301
 - Versapro Cream, NDC 38779252903
 - Compound containing the following ingredients, including a compounding fee, dispensed April 28, 2016:
 - Baclofen, NDC 38779038809
 - Mefenamic Acid, NDC 38779066906
 - Meloxicam, NDC 38779274601
 - Flurbiprofen, NDC 38779036209
 - Ethoxy Diglycol, NDC 38779190301
 - Bupivacaine HCl, NDC 38779052405
 - Versapro Cream, NDC 38779252903

These are the services considered in this dispute.

2. Dates of service February 15, 2016; February 29, 2016; and March 14, 2016, were denied by Arch Insurance Company with claim adjustment reason code N – "Not appropriately documented." 28 Texas Administrative Code §133.307(c)(2) requires the requestor to provide sufficient documentation to support the services and amounts being sought. The documentation submitted to the division by Memorial failed to support the billing for the dates of services in question. The division concludes Memorial is not eligible for reimbursement of these services.
3. Arch Insurance Company denied the disputed service with "Denied – Medication Not Authorized." 28 Texas Administrative Code §134.500(3) defines the closed formulary as "all Food and Drug Administration (FDA) approved prescription and nonprescription drugs prescribed and dispensed for outpatient use" except those requiring preauthorization. 28 Texas Administrative Code §134.540(b) states:

Preauthorization for claims subject to the Division's closed formulary. Preauthorization is only required for:

- (1) drugs identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates;
- (2) any compound that contains a drug identified with a status of "N" in the current edition of the *ODG Treatment in Workers' Comp* (ODG) / Appendix A, *ODG Workers' Compensation Drug Formulary*, and any updates; and
- (3) any investigational or experimental drug for which there is early, developing scientific or clinical evidence demonstrating the potential efficacy of the treatment, but which is not yet broadly accepted as the prevailing standard of care as defined in Labor Code §413.014(a).

The division finds that the ingredients noted in the compound in question are included in the division's closed formulary as the ingredients consist of FDA approved drugs and inactive ingredients and do not include a drug identified with a status of "N" in the current edition of the ODG, *Appendix A*. Arch Insurance Company failed to articulate any defenses for denial of the disputed compound for lack of preauthorization. Therefore, the division concludes that the compound in question did not require preauthorization and Arch Insurance Company's denial for this reason is not supported.

4. 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:
 - (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound ingredients for dates of service April 14, 2016, and April 28, 2016, in dispute were billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2). While the compound dispensed on date of service April 14, 2016, included Bupivacaine HCl in the billing, Memorial did not include this ingredient in its Medical Fee Dispute Resolution Request. Each ingredient requested is listed below with its corresponding reimbursement amount as applicable.

Date of Service April 14, 2016

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Baclofen	38779038809 Generic	\$35.63	3.0 gm	$\$35.63 \times 3 \times 1.25 =$ \$133.61	\$102.60	\$102.60
Mefenamic Acid	38779066906 Generic	\$123.60	1.8 gm	$\$123.60 \times 1.8 \times$ $1.25 = \$278.10$	\$222.48	\$222.48
Meloxicam	38779274601 Generic	\$194.67	0.18 gm	$\$194.67 \times 0.18 \times$ $1.25 = \$43.80$	\$35.04	\$35.04

Flurbiprofen	38779036209 Generic	\$36.58	6.0 gm	$\$36.58 \times 6 \times 1.25 =$ \$274.35	\$210.90	\$210.90
Ethoxy Diglycol	38779190301 Generic	\$0.342	3.0 ml	$\$0.342 \times 3 \times 1.25 =$ \$1.28	\$1.03	\$1.03
Versapro Cream Base	38779252903 Brand Name	\$3.20	44.82 gm	$\$3.20 \times 44.82 \times$ $1.09 = \$156.33$	\$112.05	\$112.05
Compounding Fee	NA	NA	NA	\$15.00	\$15.00	\$15.00
Total						\$699.10

Date of Service April 28, 2016

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Baclofen	38779038809 Generic	\$35.63	3.0 gm	$\$35.63 \times 3 \times 1.25 =$ \$133.61	\$102.60	\$102.60
Mefenamic Acid	38779066906 Generic	\$123.60	1.8 gm	$\$123.60 \times 1.8 \times$ $1.25 = \$278.10$	\$222.48	\$222.48
Meloxicam	38779274601 Generic	\$194.67	0.18 gm	$\$194.67 \times 0.18 \times$ $1.25 = \$43.80$	\$35.04	\$35.04
Flurbiprofen	38779036209 Generic	\$36.58	6.0 gm	$\$36.58 \times 6 \times 1.25 =$ \$274.35	\$210.90	\$210.90
Ethoxy Diglycol	38779190301 Generic	\$0.342	3.0 ml	$\$0.342 \times 3 \times 1.25 =$ \$1.28	\$1.03	\$1.03
Bupivacaine HCl	38779052405 Generic	\$45.60	1.2 gm	$\$45.60 \times 1.2 \times 1.25$ $= \$68.40$	\$48.02	\$48.02
Versapro Cream Base	38779252903 Brand Name	\$3.20	44.82 gm	$\$3.20 \times 44.82 \times$ $1.09 = \$156.33$	\$112.05	\$112.05
Compounding Fee	NA	NA	NA	\$15.00	\$15.00	\$15.00
Total						\$747.12

The total allowable reimbursement is therefore \$1,446.22. This amount is recommended.

Conclusion

The outcome of this medical fee dispute relied upon the evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence may not have been discussed, it was considered. For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,446.22.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,446.22, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

May 24, 2017
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.